

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

PARIS PHILLIPS,

Plaintiff,

vs.

Case No. 1:20-cv-00937

SUN LIFE ASSURANCE COMPANY OF
CANADA or SUN LIFE FINANCIAL (U.S.)
SERVICES COMPANY, INC. or SUN LIFE
CAPITAL MANAGEMENT (U.S.) LLC or
SUN LIFE ADMINISTRATORS (U.S.),
INC.,

Defendants.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE, that pursuant to 29 U.S.C. §1132(e), 28 U.S.C. §§1331, 1332, 1441 (actions removable) and 1446 (removal procedure), Defendants (collectively referred to as “Sun Life”) remove this Civil Action from the Court of Common Pleas of Hamilton County, Ohio, to the United States District Court for the Southern District of Ohio, together with all process, pleadings, and Orders, as required by 28 U.S.C. §1446(a), copies of which are attached hereto and made part hereof; and in support of this notice, Defendants state as follows:

1. On or about October 20, 2020, Plaintiff filed a Complaint in the Court of Common Pleas of Hamilton County, Ohio, bearing Case No. A 2003671, entitled *Paris Phillips v. Sun Life Assurance Company of Canada, et al.* (the “Complaint”). A copy of the Complaint is attached as Exhibit “A”.

2. Although it is unclear whether any or all Defendants have been served at the time this filing, this removal is being filed within 30 days of the filing of the Complaint. Therefore, this Notice is in compliance with 28 U.S.C. §1446(b).

3. Plaintiff filed this lawsuit seeking death benefits under a Group Policy issued by Sun Life Assurance Company of Canada to Fifth Third Bank and insuring Nicole Powell. See Complaint, paras. 1-2.

4. The Group Policy under which Plaintiff is claiming benefits is subject to and governed by the Employee Retirement Income Security Act of 1974 29 U.S.C. §§1001 *et. seq.*, (“ERISA”), as is the claim for benefits asserted under it.

5. A cause of action filed in state court seeking recovery of benefits under an employee welfare benefit plan is removable to federal court pursuant to 28 U.S.C. §1441(c) as an action arising under a federal law. *See Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58 (1987); *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41 (1987).

6. This court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331 and 29 U.S.C. §1132(e). As a civil action founded upon a claim of right under the laws of the United States, this action may be removed to this court pursuant to the provisions of 28 U.S.C. §1441(a), (b) and (c).

7. This Court also has diversity jurisdiction under 28 U.S.C. § 1332 as Plaintiff is a citizen of and domiciled in Ohio, and Defendants are each incorporated outside of Ohio and none have a principal place of business in Ohio. Additionally, the amount in controversy exceeds \$75,000.

8. No pleadings, process or orders other than the Complaint have been served on Defendants and therefore no other pleadings, process or orders are attached to this Notice as required by 28 U.S.C. §1446(a).

9. All fees required by law in connection with this notice have been paid by defendant.

WHEREFORE, Defendants remove the above-captioned action to the United States District Court for the Southern District of Ohio from the Court of Common Pleas, Hamilton County, Ohio.

Dated: November 17, 2020

Respectfully Submitted,

**SUN LIFE ASSURANCE COMPANY OF
CANADA or SUN LIFE FINANCIAL (U.S.)
SERVICES COMPANY, INC. or SUN LIFE
CAPITAL MANAGEMENT (U.S.) LLC or SUN
LIFE ADMINISTRATORS (U.S.), INC.,
Defendants**

By: /s/ Edna S. Kersting
Edna S. Kersting
WILSON ELSE
55 West Monroe Street, Suite 3800
Chicago, Illinois 60603
Tel.: (312) 821-6162
E- mail: edna.kersting@wilsonelser.com
IL6277775

Trial Counsel for Defendants

PROOF OF SERVICE

I hereby certify that on November 17, 2020, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operations of the Court's electronic filing systems to all parties indicated on the electronic filing receipt. All other parties will be served by Regular U.S. Mail. Parties may access this filing through the Court's System.

/s/ Edna S. Kersting

Edna S. Kersting